

In the  
Indiana Supreme Court



IN THE MATTER OF THE )  
 )  
APPROVAL OF LOCAL RULES )  
 )  
FOR CLAY COUNTY )

Case No. 11S00-1305-MS- **317**

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Clay Circuit and Superior Courts request the approval of an amended local rule for special judge selection in accordance with Ind. Trial Rule 79. Attached to this Order is the proposed amended local rule.

Upon examination of the proposed rule amendment requested by the Clay Circuit and Superior Courts, this Court finds that the proposed rule amendment, LR11-TR79-01 complies with the requirements of Ind. Trial Rule 79, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Clay County Local Rule, LR11-TR79-01, set forth as an attachment to this Order, is approved effective May 1, 2013, provided further that the rule shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. J. Blaine Akers, Clay Superior Court, 609 East National Avenue, Brazil, IN 47834-2659; the Hon. Joseph Trout, Clay Circuit Court, 609 East National Avenue, Brazil, IN 47834-2659; to the Clerk of the Clay Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Clay Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, on May 2, 2013.

  
Brent E. Dickson  
Chief Justice of Indiana

**LR11-TR79-01      Selection of a Special Judge Pursuant to TR 79(H)**

(A) The Presiding Judge in Administrative District 19 shall administer reassignment of cases pursuant to T.R. 79(H). The Presiding Judge shall be selected from the sitting Judges and Magistrates in District 19. The initial Presiding Judge's term shall commence April 1, 2013, and terminate December 31, 2013. All subsequent terms shall be for a calendar year. Should the Presiding Judge leave the bench during the term, a successor Judge shall be selected to fulfill the balance of that term as well as the entirety of the next term. A Judge may not refuse to serve as Presiding Judge.

(B) During his or her term of service, the Presiding Judge shall maintain a record of the cause number of each case certified for reassignment and appointment of a special judge, the Judge who certified the case, and the Judge to whom the case was reassigned. The Presiding Judge shall submit a written semi-annual report to all District 19 Judges and Magistrates no more than ten (10) days following the end of the first and third quarters of each calendar year. The Presiding Judge may assign administrative duties to local court support staff to assist in fulfilling these responsibilities. The Presiding Judge shall transfer the records maintained during his or her term of service to the succeeding Presiding Judge.

(C) Pursuant to Trial Rule 79 (H), the District Judges and Magistrates shall certify to the Presiding Judge cases for reassignment and special judge appointment. The certification shall include a prepared order of appointment, as exhibited in Appendix A. When the Presiding Judge receives a certification requiring reassignment, the Presiding Judge shall appoint a Judge or Magistrate in the following manner:

(1) At the beginning of each calendar year, the Presiding Judge shall create a list of all judicial officers in District 19. The District will follow the principle that each Judge or Magistrate will receive a new case for each case from which he or she has been removed – a one-off, one-on formula. Upon receiving a certification, the Presiding Judge shall assign the case to the first eligible Judge or Magistrate on the list.

(2) Sullivan County Judges shall not be eligible for assignment to cases from Putnam County. Putnam County Judges shall not be eligible for assignment to cases from Sullivan County.

The order of appointment shall be filed in the court where the case originated. The order of appointment shall constitute acceptance, and neither oath nor additional evidence of acceptance is required.

(D) A Senior Judge may elect to participate in District 19 special judge selection by submitting a written petition to the Presiding Judge no later than January 15 of any calendar year indicating that the Senior Judge wishes to participate during the year.

(E) When a Judge or Magistrate vacates the bench and is certified as a Senior Judge, that Judge shall retain jurisdiction of all previously existing Special Judge cases as provided by Administrative Rule 5. In the event the Judge or Magistrate vacates the bench and is not certified as a Senior Judge or is unavailable as indicated under Trial Rule 79 (L), then the successor Judge shall assume jurisdiction over all previous Special Judge cases of the vacating Judge or Magistrate. The county's judicial personnel shall first attempt to absorb conflicts of interest of the Successor Judge within the county without undue hardship.

(F) If no Judge or Magistrate is eligible to serve as a Special Judge, or if the Presiding Judge determines the selection of a Special Judge by the Indiana Supreme Court is warranted under the particular circumstances of a case, the Presiding Judge shall certify the case to the Indiana Supreme Court for appointment of a Special Judge.

**STATE OF INDIANA – COUNTY OF CLAY  
IN THE CLAY CIRCUIT AND SUPERIOR COURTS**

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**Notice of Proposed Local Rule Amendment Concerning Civil Special Judge  
Assignment for the Courts of Record of Clay County**

**April 1, 2013**

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In accordance with Trial Rule 81 of the Indiana Court Rules, the Clay Circuit and Superior courts hereby give notice to the bar and the public that the Courts propose to amend the Local Rule at **LR11-TR79-01** concerning the selection of special judges pursuant to TR 79(H), **effective May 1, 2013**. All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Supreme Court approval is required for this local rule amendment and may not take effect until approved.

In accordance with Trial Rule 81(B), the time period for the bar and the public to comment **begins on April 1, 2013**, and ends on **April 30, 2013**.

Comments by the bar and the public should be made in writing and mailed to:

Hon. Joseph D. Trout, Judge of the Clay Circuit Court or email at [jtrout@claycountyin.gov](mailto:jtrout@claycountyin.gov)

Hon. J. Blaine Akers, Judge of the Clay Superior Court or email at [judgeba@frontier.com](mailto:judgeba@frontier.com)

Attn: Public Comment on Local Rules, Clay County Courthouse, 609 E. National Ave., Brazil Indiana 47834

A paper copy of the proposed amended local rule will be made available for viewing in the office of the Clerk of Clay County, Clay County Courthouse, 609 E. National Ave., Brazil, Indiana 47834 during normal business hours. Persons with Internet access may view the proposed amended local rule at the following websites:

<http://www.claycountyin.gov> or <http://www.in.gov/judiciary/2694.htm>

\_\_\_\_\_/S/\_\_\_\_\_  
Joseph D. Trout, Judge  
Clay Circuit Court

\_\_\_\_\_/S/\_\_\_\_\_  
J. Blaine Akers, Judge  
Clay Superior Court